IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8997 of 2004

Between:

1 Kovvuri Nagi Reddy, S/o.Ammi Reddy, 40 years,
R/o.D.No.2-76, Komaripalem (V), Biccavolu Mandal,East Godavari Dist.
2 Karri Surra Reddy, S/o.Adi Reddy, 50 years,

R/o.4-85, Komaripalem (V), Biccavolu Mandal, East Godavari Dist.
3 Karri Satyanarayana Reddy, S/o.Adi Reddy, aged 45 years,
R/o.D.No.2-86, Komaripalem (V), Biccavolu Mandal,East Godavari Dist.
4 Mallidi Surra Reddy, S/o.Krishna Reddy, aged 45 years,
R/o.D.No.2-88, Komaripalem (V), Biccavolu Mandal,East Godavari Dist.

..... PETITIONERS

AND

1 The Panchayat Secretary, Grampanchayat, Komari Palem (V), Biccavolu Mandal, East Godavari Dist.
2 The Mandal Revenue Officer, Biccavolu Mandal, East Godavari Dist.
3 The Dist.Collector, Kakinada, East Godavari Dist.(A.P)
4 The Dist.Panchayat officer, Kakinada, East Godavari Dist. (A.P)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in visiting the petitioner's Houses premises on 7-5-2004 for Demolition as arbitrary, violative of fundamental rights, guaranteed under the constitution of India and consequently direct the respondents not to demolish the petitioners Houses bearing Nos.2-76, 2-85, 2-86 and 2-88 situated at Komeripalem Village, Biccavolu Mandal, East Godavari District, A.P.

For the Petitioner:Mr. K.GANGI REDDY –Advocate

For the Respondent No.1 : Mr.S.Ramachandra Reddy, Advocate.
For the Respondent No.2 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court Made the Following :

O R D E R :

The petitioners claim to be owners of Houses bearing Nos. 2-76, 2-85, 2-86 and 2-88, Komeripalem village, Biccavolu Mandal, East Godavari district. It is stated that the respondents had inspected the houses of the petitioners on 7-5-2004 and that without issuing any notice or initiating proceedings under Land Acquisition Act, the respondents are trying to demolish the houses. Hence, the writ petition.

Learned counsel for petitioners submitted that the petitioners houses are existing since more than thirty years on the road margin and their houses do not form either the road or the road margin and that the respondents are trying to evict the petitioners threatening for formation and construction of C.C. roads from S.R. Road to Gangayyamma Rice Mills at Komarripalem village, East Godavari District.

This Court while issuing notice to respondents granted interim direction to the respondents not to demolish the houses of the petitioners. The first respondent/Gram Panchayat has filed a counter affidavit along with the vacate stay petition stating that since there is heavy vehicular and pedestrian traffic on the road causing traffic congestion much inconvenience to general public, as such, for the convenience of the public and for the development of the village, proposals were drawn for widening the road. Accordingly, the District survey authorities caused survey and pet marks were fixed for widening the road. Further sitting M.P. agreed to provide required funds to a tune of Rs.10,000/- from M.P. funds. The petitioners, who are encroached into the road margin, many a time, they were instructed to vacate the same and a notice dated 03-05-2004 was also issued to the petitioners directing them to vacate

the place.

It is now settled that, necessary procedure shall be followed by the Gram Panchayat for eviction of the encroachers for widening of the road. This Court in ***B.SHIRAMANI v. EXECUTIVE OFFICER, GRAMPANCHAYAT, MEDCHAL GRAMPANCHAYAT*** held that the respondent-grampanchayat have to follow the Rules issued in G.O.Ms.No.555 Panchayat Raj and Rural Development (Rules), dated 03-12-1999 and after following the said procedure if any person built any wall or erected any fence of other obstruction or projections or make any encroachment, in any street, a notice as contemplated under Rule 2 of the rules issued in G.O.Ms.No.555 dated 03-12-1999 has to be issued only after getting the street surveyed and fixing the outer line of the street and only if the person fails to comply with the notice, the Executive Authority shall cause obstruction removed from the street at the cost of such individual and collect it forthwith but the notice as contemplated shall be served in the manner prescribed as per Rules issued in G.O.Ms.No.430, Panchayat Raj and Rural Development (Panchayats-IV) dated 22-10-1998. Only after following such procedure and after providing an opportunity to the owner of the premises they can proceed with the encroachment, if any, in the event if the owners of the houses satisfies that there is no encroachment on their part necessarily, the land so required should be acquired after issuance of the notification as contemplated under the Land Acquisition Act or by obtaining consent of the owner. Without following either of the procedure, the petitioners cannot be dispossessed from the suit schedule houses nor their houses can be demolished for alleged road widening, if any. The Writ Petition is accordingly disposed of. No costs.

_____

06-07-2004

prv/ccm

To

1 The Panchayat Secretary, Grampanchayat, Komari Palem (V), Biccavolu Mandal, East Godavari Dist.
2 The M.R.O.,Biccavolu Mandal, East Godavari Dist.
3 The District Collector, Kakinada, East Godavari Dist.(A.P)
4 The Dist.Panchayat officer, Kakinada, East Godavari Dist. (A.P)

5 2 CCs to G.P. for Panchayat Raj and Rural Development, High Court of A.P.,,Hyderabad..

6. 2 CD copies